

## REMARKS

Claim 57 has been rejected under 35 U.S.C. § 112, and as a result, it has been cancelled rendering this rejection moot.

Claims 60 and 56 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Booth (US Patent # 6,671,990) in view of Tai et al. (US Patent # 5,483,362). Claims 49-55 and 58-59 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Booth (US Patent # 6,671,990) and Tai et al. (US Patent # 5,483,362) and further in view of Sanders (US Patent # 5,046,277) and Tai et al. (US Patent # 6,490,060). Applicant respectfully disagrees with Examiner and believes that claims 49-56 and 58-59 present allowable subject matter over the prior art references relied upon by the Examiner.

Applicant respectfully disagrees with Examiner's assertions that the inventive holographic sight device as claimed in claims 56 and 60 is obvious in light of the prior art references. In Tai, the sight device is not mounted at the free end of the barrel, but rather is positioned close to the eyes. This orientation is undesirable because a shooter has a greater likelihood of seeing the holographic image even when misaligned to the target because the shooter's eye is positioned close to the sight device. The present invention is distinguishable from Tai because the holographic sight device is positioned away from the shooter's eye. As a surprising result, the shooter gains increased aiming accuracy because there is a decrease in the angular field of vision between the holographic virtual reticle and the shooter.

Applicants respectfully disagree with the Examiner's individual preference assertion<sup>1</sup> because the present invention teaches that (1) placing the holographic sight device away from the eyes improves alignment to a target for all individuals independent of their individual preference, and (2) the ability to which the sighting device works as intended is dependent of the distance from the sight device to the eyes, and not independent as stated by the Examiner. Thus, one reviewing the prior art would not predict the benefits of positioning a holographic sight device based on the conventional wisdom alleged in the Office Action. In turn, moving the location of the holographic sighting device away from the shooter's eye for any individual does not impair the shooter's aiming ability, and even more surprisingly, improves his

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<sup>1</sup> "It is noted that holographic sights are known for having unlimited field of view and unlimited eye relief, and therefore the placement of the holographic sight on the barrel and the distance of the sight from the users eye is independent of the sights ability to work as intended and is merely related to individual preference" (Office Action of 9/11/2007, Page 3).

aiming ability and results in more accurate shooting.

Moreover, one skilled in the art would not consider combining the Tai and Booth references because (1) Booth does not relate to a holographic sight device, and (2) the conventional wisdoms of holographic sight devices were that holographic sight devices need to be placed close to the eyes for the best vision of the virtual reticle. Accordingly, mounting the sight device away from the eyes as in Booth would appear disadvantageous because the virtual reticle would be less visible, and therefore the present invention should be distinct from Booth and Tai.

The Applicant also asks the Examiner to clarify her position regarding claims 60 and 56, that position being stated starting near the bottom of page 4 relative to "statements of intended use." The Examiner points to various types of clauses which are "method limitations or statements of intended use" which "do not serve to patentably distinguish the claimed structure over that of the reference." But the claims in question do not at all relate to statements of use or the like, and the Applicant seeks clarification as to how this portion of the Office Action is relevant to the rejection of the claims.

Since the Applicant believes that claim 60 is patentable, claims 49-60 should be in condition for allowance. It is asked that the Examiner reconsider this rejection to avoid the potential of an appeal and protracted prosecution.

Respectfully submitted,



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